

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**UCHECHI AMUNEKE-NZE a/k/a
ESTHER,**
Plaintiff

v.

USAA and SARAH KLINE,
Defendants

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Case No. 1:23-CV-00336-DII-SH

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

**TO: THE HONORABLE DISTRICT COURT
UNITED STATES DISTRICT JUDGE**

Now before the Court is Plaintiff's Original Complaint, filed March 28, 2023 (Dkt. 1). The District Court referred this case to this Magistrate Judge for Report and Recommendation as to whether the case should be dismissed as frivolous under 28 U.S.C. 1915(e), pursuant to Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas and the Court Docket Management Standing Order for United States District Judge Lee Yeakel. Dkt. 4.

To determine whether Plaintiff has stated a claim, the Court ordered Plaintiff to submit by May 19, 2023, a More Definite Statement providing facts to support her claim under 42 U.S.C. § 1985. Dkt. 5. The Court stated that Plaintiff's failure to respond fully by the deadline would result in the Court recommending dismissal for failure to prosecute. *Id.* at 4. Plaintiff has not filed a response.

A district court may dismiss an action *sua sponte* for failure to prosecute or to comply with any order of court under Federal Rule of Civil Procedure 41(b). *McCullough v. Lynaugh*, 835 F.2d

1126, 1127 (5th Cir. 1988). Because Plaintiff failed to abide by a Court Order and to prosecute her case by providing additional facts in support of her claim, the Court recommends that the case be dismissed.

I. Recommendation

This Magistrate Judge **RECOMMENDS** that the District Court **DISMISS** this case without prejudice pursuant to Rule 41(b).

It is **ORDERED** that the Clerk **REMOVE** this case from the Magistrate Court's docket and **RETURN** it to the docket of the Honorable District Court.

II. Warnings

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. *See Battle v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987). A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report and, except on grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

SIGNED on May 30, 2023.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE